

APPEAL NO. 033038
FILED DECEMBER 18, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on September 16, 2003. The hearing officer determined that: (1) the appellant (claimant) did not sustain a compensable injury; (2) the date of the alleged injury is _____; and (3) the claimant did not have disability. The claimant appeals the injury and disability determinations on sufficiency of the evidence grounds. The respondent (carrier) urges affirmance.

DECISION

The decision and order of the hearing officer have become final pursuant to Section 410.169.

A written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision. Section 410.202(a). Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that an appeal is presumed to have been timely filed if it is mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Texas Workers' Compensation Commission (Commission) not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be satisfied in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 94065, decided March 1, 1994. Pursuant to Section 410.202(d), Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code are not included in the computation of time in which a request for appeal must be filed.

Commission records indicate that the hearing officer's decision was mailed to the claimant on October 1, 2003. The claimant states in his appeal that he received the decision on October 6, 2003. The last date for the claimant to timely file an appeal was October 27, 2003, and the deadline for receipt by the Commission was November 3, 2003. The claimant sent his appeal to the Commission on October 27, 2003; however, it was not received until December 1, 2003, beyond the 20-day deadline. A copy of the claimant's appeal was also provided by the carrier and was stamped as received by the Commission's Chief Clerk of Proceedings on November 21, 2003. The appeal is, therefore, untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision and order of the hearing officer has become final pursuant to Section 410.169.

The true corporate name of the insurance carrier is **COMMERCE & INDUSTRY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Edward Vilano
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Margaret L. Turner
Appeals Judge